

GNLU Centre for Law and Economics

A GLANCE OF THE FIRST ROUND OF THE PANEL DISCUSSION ON THE IMPACT ASSESSMENT OF THE CORPORATE INSOLVENCY RESOLUTION PROCESS: FUTURE PROSPECTS AND PRACTICAL CHALLENGES

The Insolvency and Bankruptcy Code, 2016 is a legislation which creates a new model for insolvency acting as an umbrella provision dealing with corporates, partnership firms and individuals. The all-encompassing code aims to codify and consolidate the law and creates a framework for a time-bound resolution of insolvency. It tries to promote value maximization by allowing for resolution of the debts of a company such that it can be maintained as a *going-concern* instead of liquidation. Here the company is sold to the resolution applicant who pays off the various debts of the company allowing for both high recovery of debt by the creditors and survival of the company and its business operations. Thus, the Code promotes entrepreneurship and aims to balance the interests of various stakeholders, with liquidation of the company kept only as a last resort. It allows for the company's operation to continue during the resolution process through an appointed Resolution Professional and puts the power of decision making in the hands of the Committee of Creditors made up of the Financial Creditors of the Corporate Debtor. In this way, the IBC bring with it a new era of a modern insolvency ecosystem that seeks to address the interests of all the involved parties.

The GNLU Centre for Law and Economics, supported by the GNLU Faculty Seed Grant Programme since June 2022 is undertaking a research project headed by Dr. Hiteshkumar Thakkar (Asst. Professor Economics, GNLU) titled *Impact assessment of Corporate Insolvency Resolution Process (CIRP) in the State of Gujarat*. The research aims at engaging with all the relevant stakeholders including Resolution Professionals, Bankers, Lawyers, Registered Valuers and Company Secretaries through various mediums including circulation of a Questionnaire Survey, Interviews and Panel Discussions with an aim to unravel the challenges faced by stakeholders and solutions to improving efficiency in implementation of the law.

Though the discussion seemed to point towards an agreement on the beneficial aims and objectives, some pertinent issues pertaining to the IBC and its implementation were pointed out including that of significant delays in the timeline, especially by the NCLT which also leads

do delay in recovery for banks, problems associated with valuation as well as IRP centric issues such as non-cooperation of the Corporate Debtor. The rich and lively discussion also fructified in the form of some solutions brought to the table including the possibility of a mechanism to reverse a liquidation order if the actual realisation is less, and the idea of constituting an expert panel to assist the Resolution Professional and COC in the CIRP process.

Below are some of the highlights of the distinguished Panellists' comments:

Adv. Pavan Godiawala: *IBC is an evolving law. It is a carry forward of the SICA where now they have created a strict time-bound schedule which was not there earlier.*

Arvind Gaudana (IP, PCS): *Object of IBC is very good. As soon as the Corporate Debtor is admitted the IRP steps into the CIRP process. I find that there is a timeline for each activity.*

V Mahesh (PCS, IP) - *Even if voting rights are not given, at least there should be a mechanism where, say, the top ten employees are given insights into the promoters and enterprise, for example : why this enterprise is defaulting or why this is a trusted promoter.*

Senior Adv. Navin Pahwa - *The Concept of clean slate has come through judgements in the court. But we need some clarification on this concept in the IBC because as of now there aren't any special provision provided for the clean slate concept.*

Keyur Shah (IP, PCS, Registered Valuer)- *We as Professionals should get some immunity from the interpretation of law in these proceedings, since word is evolving and changing all the time, and so we are new to this as well. Thus, there should be some form of immunity given to RP's who work in a bona fide capacity.*